

SEP 24 2006

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
021202-000200US

First named inventor: HIRSCHSOHN, Ian

Application No.: 09/974,521

Art Unit: 2127

Filed: 10/09/2001

Examiner: Bataille, Pierre Miche

Title:
Predictive Resource Allocation in Computing Systems

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment and Response (identify type of reply):

☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (07-06)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

September 24, 2006

Date

Nancy R. Gamburd

Typed or printed name

38,147

Registration Number, if applicable

600 West Jackson, Suite 625

Address

312-876-0460

Telephone Number

Chicago, IL 60661

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Declaration of Gerald T. Gray (2 pages)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

September 24, 2006

Date



Signature

Nancy R. Gamburd

Typed or printed name of person signing certificate

RECEIVED
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Serial No. 09/974,521

SEP 24 2006

Amendment and Response

IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE

Patent Application

Inventor: Hirschsohn, Ian

Examiner: Truong, Camquy

Serial No.: 09/974,521

Group Art Unit: 2127

Docket No.: 021202-000200US

Filed: 10/09/2001

Entitled: Predictive Resource Allocation in Computing Systems

Nancy R. Gamburd
Attorney for Applicant
Gamburd Law Group LLC.
600 West Jackson, Suite 625
Chicago, IL 60661

STATEMENT IN SUPPORT OF PETITION TO REVIVE
AN UNINTENTIONALLY ABANDONED APPLICATION

Mail Stop Petitions
Honorable Commissioner of
Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

No response to the Office Action mailed January 26, 2005 was filed by the Applicant. Applicant hereby respectfully submits a Petition to Revive an Unintentionally Abandoned Application and the Declaration of Gerald T. Gray (2 pages, with 2 pages of Exhibit A), the corresponding fees, and a Power of Attorney appointing the undersigned as new counsel of record.

In the Notice of Abandonment mailed August 7, 2006, it was asserted that "Applicant's representative, Mr. Fidel D. Nwamu (46,294), indicated that Applicant had abandoned this case". This is incorrect. As established by the Declaration of Gerald T. Gray, a partner at the firm of Townsend and Townsend and Crew, LLP, the law firm previously of record in this case, Mr. Nwamu had left this law firm at the end of 2002,

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over two years before the mailing date of the Office Action. Mr. Nwamu was not authorized to make any representations concerning this case, to the patent office or to any other entity. Mr. Nwamu no longer had any contact with this client and would have had no knowledge whatsoever concerning whether Applicant had filed any responses due.

5 Indeed, Mr. Nwamu no longer even had access to the docketing system of Townsend and Townsend and Crew, LLP to know both that an Office Action might have been mailed and a response may have been past due. As a consequence, any statement by Mr. Nwamu is of no force or effect concerning any purported abandonment of this case.

10 Accordingly, Applicant respectfully submits that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

In the event of non-payment or improper payment of any required fee, the Commissioner is authorized to charge or to credit Deposit Account No. 501,262 as may be required to correct the error.

15 In addition, for any issues or concerns, the Examiner is invited to call the attorney for the Applicant at the telephone number provided below.

Respectfully submitted,

Ian Hirschsohn,

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September 24, 2006

By



Nancy R. Gamburd
Attorney for Applicant
Registration No. 38,147
Phone: 312-876-0460
Fax: 312-276-4176


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Serial No. 09/974,521

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Statement In Support Of Petition To
Revive an Unintentionally Abandoned Application (3 pages), Petition to Revive an
Unintentionally Abandoned Application (PTO/SB/64) (2 pages), Declaration of Gerald T.
5 Gray (2 pages, with 2 pages of Exhibit A), Amendment and Response (8 pages),
Transmittal (PTO/SB/21) (1 page), Fee Transmittal (PTO/SB/17) (1 page), and Power of
Attorney (PTO/SB/80 and PTO/SB/96) (2 pages) (21 pages total), for Ian Hirschsohn,
U.S. Patent Application Serial No. 09/974,521, entitled "Predictive Resource Allocation
in Computing Systems", have been transmitted by facsimile to the US Patent and
10 Trademark Office to fax number (571) 273-8300 (Centralized Facsimile Number), on
September 24, 2006.

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Nancy R. Gamburd
Reg. No. 38,147